

ESSAY EXAMINATION INSTRUCTIONS

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

Question 1

Daisy was driving on the streets of City to meet her friend Sally for a lunch date.

Realizing that she might be late for the lunch date and, while still driving, Daisy decided to call Sally on her cell phone to let her know that she was running late. While dialing Sally's telephone number, Daisy lost control of her car and hit a telephone pole. The pole broke, fell over, and rolled down the street.

About a block away, the pole rolled toward Frisky, a cat, who was walking across the street. Fearing for Frisky's safety, nine-year-old Owen, Frisky's owner, ran into the street, jumped in front of the moving pole, and pushed the startled Frisky out of its path. Unfortunately, the pole ran over Owen's leg and crushed it. Owen will need medical treatment for these injuries for the rest of his life.

Prior to these events, City had passed an ordinance forbidding the use of a cell phone by an automobile driver while driving. The ordinance was passed in response to community concerns that cell phone use while driving is distracting and causes motor vehicle accidents. The penalty for a violation of the ordinance is \$100.

On what theory or theories might an action for damages be brought on behalf of Owen against Daisy, what defenses, if any, might Daisy assert, and what is the likely result? Discuss fully.

Question 2

Victor and Debra were dealers of cocaine, which they brought into the United States from South America in Debra's private plane. On a trip from South America, while Debra was flying her plane, it crashed in a snowy mountainous area in California. Victor was rendered unconscious in the crash. The cocaine they had obtained in South America was hidden inside Victor's coat. Debra, who was uninjured, put on Victor's coat and left to seek help.

Eventually, Debra came to a farmhouse with a truck parked outside. She decided to steal the truck. When she opened its door, however, she found an anti-theft device locked onto the steering wheel. Since this would make it difficult to steal the truck, she decided not to steal the truck after all and called a taxi cab from a roadside telephone a short distance from the farmhouse.

Carl, the cab driver, turned out to be a local drug dealer whom Debra knew. Debra agreed to sell Carl the cocaine she had brought from South America so that he could distribute it. He drove her to his house, where they discussed and finalized the deal. Debra then remembered about Victor, and notified the authorities of the plane crash. By the time the plane wreckage was reached, Victor had died. The authorities concluded that if help had arrived earlier, Victor likely could have been saved.

Carl sold all the cocaine he had obtained from Debra. Unbeknownst to either of them, in South America a strong chemical had been sprayed on the plants that were used to produce the cocaine. As a result, after using the cocaine twenty of the people who purchased the cocaine became seriously ill and all died. Carl has fled the jurisdiction.

What crimes, if any, has Debra committed, and what defenses might she assert? Discuss fully.

Question 3

Delia, who operates and is the only instructor at a successful dance school, needed a new dance instructor. While at an out-of-town social function, she mentioned the job opportunity to her friend, Fran, saying, "I know you don't have any formal dance training, but you are such a natural athlete that this position could be a good fit for you." Fran immediately quit her job and moved to the town of Delia's school to pursue her prospects as a dance instructor at the school.

Unaware that Fran was moving, Delia contacted Irv, an experienced dance instructor, to inquire about his availability for the position at her school. Delia offered Irv a six-month contract. Irv said, "That is a tempting offer. Can you give me a month to think about it?" Reluctantly, Delia signed a statement that provided that Irv had one month to make his decision based on the "good consideration" of \$20 paid by Irv to Delia. In fact, Irv paid Delia nothing.

In the meantime, the landowner of the property at which the dance school operated terminated Delia's lease. Worried about having to find a new site on which to operate the dance school, Delia decided not to hire a second dance instructor just yet. At the end of the month, when Irv called Delia to advise her of his decision to accept the job offer, Delia advised him that she had decided not to hire another dance instructor.

1. Under what legal theory, if any, can Fran sue Delia, and to what relief, if any, might Fran be entitled? Discuss fully.
2. Is Irv likely to prevail in a lawsuit against Delia to enforce their contract? Discuss fully.

Question 4

Eight-year-old Hannah attended Camp, a children's summer camp. Some of the children at Camp were resident campers who spent each night in cabins, and others, such as Hannah, were day campers who attended Camp between 9:00 a.m. and 4:00 p.m. and rode bicycles to and from their nearby suburban homes daily. The bicycles were locked outside each day camper's cabin, with the camper keeping the key to the bicycle.

Rick, a Camp counselor, owned a baseball autographed by Babe Ruth that he had brought with him to Camp to show the campers. One day at 3:00 p.m. after a baseball game at Camp, Rick discovered that his autographed baseball had been put into the ball bag and used in the game. He was very upset to find that Babe Ruth's autograph had been all but worn off as a result.

Rick learned that Hannah had been seen coming out of Rick's cabin a few minutes before the baseball game and that she had sat near the ball bag before the start of the game. He told Hannah that he would not let her ride home until she admitted what she had done. Very upset, Hannah continually protested her innocence until Rick finally told her at 6:30 p.m. that she could get her bike and ride home. She lived approximately one-half mile from Camp.

When Hannah's parents asked the Camp Director why their daughter had been so late in getting home, the Director told them what had happened. The Director added that he would never have allowed Rick to keep Hannah so late had he been aware of it. He also told Hannah's parents that Hannah had not taken Rick's ball. In fact, her eight-year-old campmate, Jessie, confessed that she had placed Rick's autographed baseball in the ball bag.

1. On what theory or theories, if any, might an action be brought on Hannah's behalf against Rick, what defenses might Rick assert, and what is the likely outcome? Discuss fully.
2. On what theory or theories, if any, might an action be brought on Hannah's behalf against Camp, what defense might Camp assert, and what is the likely outcome? Discuss fully.